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09/918,509	08/01/2001	Kazuhiko Hayashi	Q65676	3298

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EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT PAPER NUMBER

2145

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/918,509	Applicant(s) HAYASHI, KAZUHIKO	
	Examiner Jeffrey R. Swearingen	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-20 and 22-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-20 and 22-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 101

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 11-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In claims 11 and 12, Applicant claims "means for communicating" by an electric wave. Non-statutory subject matter includes means for communicating by an electric wave.

Claim Rejections - 35 USC § 102

3. Claims 1-4, 6, 11-20, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Ueda (U.S. Patent No. 5,973,680).
4. In regard to claim 1, Ueda discloses *the information storage and playback device includes means of storing each of a plurality of partial information of a plurality of delivery information beforehand (column 7, lines 11-12), choosing one of the partial information from the plurality of the stored partial information and reproducing the chosen partial information (column 7, lines 13-21), and giving notice of information that the one of the partial information has been chosen from the plurality of the delivery information to the information delivery device just as reproduction of the chosen partial information starts (column 7, line 13); the information delivery device includes a means of transmitting remaining information of the partial information, which has been chosen to be reproduced and has been notified by the information storage and playback device, to the information storage and playback device just as reproduction of the partial information of the plurality of the delivery information finishes at the information storage and playback device (column 7, lines 16-21); and the information storage and playback device includes a means of reproducing the remaining information of the partial information transmitted from the information delivery device, wherein the partial information of the delivery information, which is transmitted from the information delivery device to the information storage and playback device through the information*

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communicating means and is received and stored in the information storage and playback device, is renewed when necessary (column 8, lines 62-64).

5. In regard to claim 2, Ueda discloses *the information storage and playback device includes means of storing each of a plurality of partial information of a plurality of delivery information beforehand, choosing one of the partial information from the plurality of the stored partial information and reproducing the chosen partial information, and giving notice of information that the one of the partial information has been chosen from the plurality of the delivery information to the information delivery device just as reproduction of the chosen partial information starts; the information delivery device includes a means of transmitting remaining information of the partial information which has been chosen to be reproduced at the information storage and playback device to the information storage and playback device while the information storage and playback device is reproducing the partial information; and the information storage and playback device includes means of storing the remaining information of the partial information which has been chosen to be reproduced at the information storage and delivery device, and reproducing the stored remaining information of the partial information which has been chosen to be reproduced at the information storage and playback device just as reproduction of the partial information flushes.* The limitations of this claim are substantially the same as the limitations of claim 1; therefore the rejection of claim 1 is applicable against claim 2.

6. In regard to claim 3, Ueda is applied as in claim 1. Ueda further discloses *connecting a storage medium, in which the partial information of the delivery information is set up by the information delivery device beforehand, to the information storage and playback device, or transmitting the partial information of the delivery information which is set up by the information delivery device before hand from the information delivery device to the information storage and playback device through the information communicating means and storing the transmitted partial information of the delivery information in a storage medium by the information storage and playback device; transmitting partial information of delivery information, which belongs to an information group chosen to be delivered by the information storage and playback device beforehand, from the information delivery device to the information storage and playback device through the information communicating means, and storing the transmitted partial*

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information of the delivery information which belongs to the information group in a storage medium by the information storage and playback device; transmitting partial information of delivery information, which belongs to one of information groups prioritized and sorted out according to a past record of a user of the information storage and playback device, from the information delivery device of the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information, which belongs to one of the information groups prioritized and sorted out according to the past record of the use of the information storage and playback device, in a storage medium by the information storage and playback device; or transmitting partial information of delivery information, which belongs to one of information groups prioritized and sorted out according to past records of a plurality of users of the information storage and playback devices, from the information delivery device to the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information, which belongs to one of the information groups prioritized and sorted out according to the past records of the plurality of the users of the information storage and playback devices, in a storage medium by the information storage and playback device. Terminal memory is a storage medium. Ueda, column 4, lines 31-41.

7. In regard to claim 4, Ueda is applied as in claim 2. Ueda further discloses *connecting a storage medium, in which the partial information of the delivery information is set up by the information delivery device beforehand, to the information storage and playback device, or transmitting the partial information of the delivery information which is set up by the information delivery device before hand from the information delivery device to the information storage and playback device through the information communicating means and storing the transmitted partial information of the delivery information in a storage medium by the information storage and playback device; transmitting partial information of delivery information, which belongs to an information group chosen to be delivered by the information storage and playback device beforehand, from the information delivery device to the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information which belongs to the information group in a storage medium by the information storage and playback device; transmitting partial information of delivery information, which*

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belongs to one of information groups prioritized and sorted out according to a past record of a user of the information storage and playback device, from the information delivery device of the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information, which belongs to one of the information groups prioritized and sorted out according to the past record of the use of the information storage and playback device, in a storage medium by the information storage and playback device; or transmitting partial information of delivery information, which belongs to one of information groups prioritized and sorted out according to past records of a plurality of users of the information storage and playback devices, from the information delivery device to the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information, which belongs to one of the information groups prioritized and sorted out according to the past records of the plurality of the users of the information storage and playback devices, in a storage medium by the information storage and playback device. Terminal memory is a storage medium. Ueda, column 4, lines 31-41.

8. In regard to claim 6, Ueda is applied as in claim 2. Ueda further discloses *the partial information of the delivery information, which is transmitted from the information delivery device to the information storage and playback device through the information communicating means and is received and stored in the information storage and playback device, is renewed when necessary; and a means for storing the partial information of the delivery information in the information storage and playback device before hand is installed by: connecting a storage medium, in which the partial information of the delivery information is set up by the information delivery device beforehand, to the information storage and playback device, or transmitting the partial information of the delivery information which is set up by the information delivery device beforehand from the information delivery device to the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information in a storage medium by the information storage and playback device; transmitting partial information of delivery information, which belongs to an information group chosen to be delivered by the information storage and playback device beforehand, from the information delivery device to the information storage and playback device through the information communicating means, and storing the*

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transmitted partial information of the delivery information which belongs to the information group in a storage medium by the information storage and playback device; transmitting partial information of delivery information, which belongs to one of information groups prioritized and sorted out according to a past record of a user of the information storage and playback device, from the information delivery device to the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information, which belongs to one of the information groups prioritized and sorted out according to the past record of the user of the information storage and playback device, in a storage medium by the information storage and playback device; or transmitting partial information of delivery information, which belongs to one of information groups prioritized and sorted out according to past records of a plurality of users of the information storage and playback devices, from the information delivery device to the information storage and playback device through the information communicating means, and storing the transmitted partial information of the delivery information, which belongs to one of the information groups prioritized and sorted out according to the past records of the plurality of the users of the information storage and playback devices, in a storage medium by the information storage and playback device. The Examiner interprets this to be transmitting menu information to the user. Ueda teaches this in column 6, lines 35-40 and column 7, lines 22-33.

9. Regarding claims 11-12, Ueda is applied as in claims 1-2. Ueda further discloses *the information communicating means includes at least one selected from a communicating means by electric wave, a communicating means by electric wave going through a satellite, a communicating means by a public phone line, and a communicating means by the Internet.* [Ueda discloses a communications line between the terminal and the server. Ueda, column 6, lines 30-32. This communications line broadly encompasses all communicating means discussed within the claim language.]

10. Regarding claims 13-14, Ueda is applied as in claims 1-2. Ueda further discloses use of moving picture information. [Ueda, Abstract]

11. Regarding claims 15-16, Ueda is applied as in claims 1-2. Ueda discloses *the delivery information includes image information, moving picture information, or voice information.* [Ueda, Abstract]

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Ueda further discloses that in the prior art, motion pictures are commonly transmitted using the MPEG compression coding system, which qualifies as *compressed data information*. [Ueda, column 1, lines 14-25]

12. Regarding claim 17, the limitations of this claim are substantially the same as the limitations in claim 1. Therefore the rationale used in rejecting claim 1 is applied in rejecting claim 17.

13. Regarding claim 18, the limitations of this claim are substantially the same as the limitations in claim 2. Therefore the rationale used in rejecting claim 2 is applied in rejecting claim 18.

14. Regarding claims 19-20, Ueda is applied as in claims 17 and 18. The limitations of claims 19-20 are substantially the same as the limitations in claims 3-4, therefore the rejection applied to claims 3-4 is equally applicable to claims 19-20.

15. Regarding claim 22, Ueda is applied as in claim 18. The limitations of claim 22 is substantially the same as the limitations in claim 6, therefore the rejection applied to claim 6 is equally applicable to claim 22.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 7-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda in view of Barton et al. (U.S. Patent No. 6,233,389).

18. In regard to claims 7-10, Ueda is applied as in claims 1 and 2. Ueda fails to disclose utilizing a secondary storage means to store the entirety of information transmitted separately from the preview information stored in the primary storage medium [memory]. However, Barton discloses a system to store an entire video broadcast for later viewing. [Barton, Abstract, column 2, lines 22-33, column 3, lines 62-65, column 4, lines 14-23] Barton discloses use of a hard disk or other storage device. [Barton, column

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3, lines 62-63] It would be obvious to one of ordinary skill in the networking art to combine the teachings of Barton and Ueda for storing and displaying video programs. The motivation would be to allow the user to watch a stored program without interruption in case there was a disruption in communication between the server and the client. By this rationale claims 7-10 are rejected.

19. Claims 23-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda in view of Swix et al. (U.S. Patent No. 6,609,253).

20. In regard to claims 23-32, Ueda is applied as in claim 1. Ueda discloses a video distribution system. Ueda fails to disclose an accounting system for said video distribution system that keeps track of various versions of time lapsed as described in claims 23-32. Claims 23 and 28 refer only to the accounting system, while claims 24-27 and 29-32 refer to various timekeeping accounting methods. Swix in the same field of endeavor discloses an interactive media system that allows for pay-per-view and video-on-demand service to be sent to a subscriber's personal computer or other viewing device. Swix discloses various time accounting methods in column 7, lines 8-19. More time accounting methods are shown in Swix, column 4, lines 29 – column 5, line 25; Figure 3, column 8, lines 6-15; column 9, line 65 – column 11, line 17. It would be obvious to one of ordinary skill in the art to modify the teachings of Ueda with the teachings of Swix for any type of accounting system to track usage of the video system, so that a user of Ueda could be accurately charged for their use of the Ueda invention. Ueda has given motivation for the combination stating that a typical example of the Ueda system would be a video on demand system (column 1, lines 24-25), which is also described in Swix (Abstract).

Response to Arguments

21. Applicant has overcome the drawing objection.

22. Applicant has overcome the specification rejection.

23. Applicant has overcome the rejections to claims 5, 6, 21 and 22 based on improper multiple dependence.

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24. The Examiner is withdrawing the rejection under 35 U.S.C. 112 1st paragraph, based upon Applicant's argument.

25. Applicant has not overcome the rejection of claims 11-12 under 35 U.S.C. 101. Electric waves are not statutory subject matter. Means for sending signals via electric waves are likewise not statutory subject matter, since they are means for dealing with non-statutory subject matter.

26. The Examiner admits to misunderstanding Applicant's submission of the Korean Office Action as an admission by Applicant. For clarification purposes for Applicant, the Examiner is only rejecting in this Office Action using the Ueda reference, but maintains the right to reject under KR 10-231402.

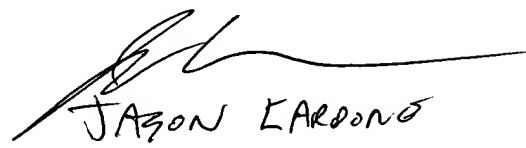
27. Because of the Examiner's previous error regarding the Korean Office Action, this action is made non-final as a courtesy to Applicant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571-272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JASON LARDONE
Primary Examiner 2145